

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
(EASTERN DIVISION)

LINDA LAMAACK,

Plaintiff,

v.

MENARD, INC.,

Defendant.

CASE NO. 6:22-cv-2058

**APPENDIX TO NOTICE OF
REMOVAL OF CIVIL ACTION AND
RULE 81 STATEMENT**

COMES NOW, Defendant Menard, Inc., by and through the undersigned counsel, and pursuant to Local Rule 81(a)(1), hereby attaches the following documents from Black Hawk County, Iowa District Court, Case No. LACV146612 in support of its Notice of Removal:

Document No.	Description
1	Petition and Jury Demand (filed 10/27/2022)
2	Original Notice (filed 10/27/2022)
3	Return of Service (filed 10/28/2022)

Certificate of Service

The undersigned certifies that the foregoing instrument was served upon the parties to this action by serving a copy upon each of the attorneys listed as receiving notice on 11/2/22, 2022, by CM/ECF.

/s/ Traci Haenzi

Original to:

Nicholas C. Rowley
Dominic F. Pechota
Jon Specht
TRIAL LAWYERS FOR JUSTICE, P.C.
421 W. Water St., Third Floor
Decorah, IA 52101
nick@tl4j.com
dominic@tl4j.com
jon@tl4j.com

ATTORNEYS FOR PLAINTIFF

GREFE & SIDNEY, P.L.C.

By: /s/ Mark W. Thomas
Mark W. Thomas, AT0007832

By: /s/ Laura N. Martino
Laura N. Martino, AT0005043

By: /s/ Ryleigh J. Keeney
Ryleigh J. Keeney, AT0014497

500 E. Court Ave., Ste. 200
Des Moines, IA 50309
Phone: 515/245-4300
Fax: 515/245-4452
mthomas@grefesidney.com
lmartino@grefesidney.com
rkeeney@grefesidney.com

ATTORNEYS FOR DEFENDANT



null / ALL

Transmittal Number: 25803636
Date Processed: 10/28/2022

Notice of Service of Process

Primary Contact: Jaime Schroeder
Menard, Inc.
5101 Menard Dr
Eau Claire, WI 54703-9604

Electronic copy provided to: Jim McMenomy
Meghan Olson
Todd Lemanski
Brianna Varanko

Entity: Menard, Inc.
Entity ID Number 0033810

Entity Served: Menard, Inc.

Title of Action: Linda Lamaack vs. Menard, Inc.

Matter Name/ID: Linda Lamaack vs. Menard, Inc. (13135817)

Document(s) Type: Notice and Complaint

Nature of Action: Personal Injury

Court/Agency: Black Hawk County District Court, IA

Case/Reference No: LACV146612

Jurisdiction Served: Iowa

Date Served on CSC: 10/28/2022

Answer or Appearance Due: 60 Days

Originally Served On: CSC

How Served: Personal Service

Sender Information: Trial Lawyers for Justice, P.C.
563-382-5071

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com

IN THE IOWA DISTRICT COURT FOR BLACK HAWK COUNTY

<p>LINDA LAMAACK, Plaintiff, vs. MENARD, INC., Defendant.</p>	<p>LAW No. _____</p>
<p>CIVIL ORIGINAL NOTICE</p>	

TO THE ABOVE NAMED DEFENDANT:

You are notified that a petition has been filed in the office of the clerk of this court naming you as the defendant(s) in this action. A copy of the petition is attached to this notice. The name and address of the attorneys for the plaintiffs are Nicholas Rowley, Dominic Pechota, and Jon Specht, Trial Lawyers for Justice, P.C., 421 W. Water Street, Third Floor, Decorah, IA 52101. The attorneys' phone number is (563) 382-5071; facsimile number: (888) 801-3616.

You are further notified that the above case has been filed in a county that utilizes electronic filing. Unless, within 60 days after service of this original notice upon you, you serve, and within a reasonable time thereafter file a motion or answer, in the Iowa District Court for Black Hawk County, at the courthouse in Waterloo, Iowa, judgment by default will be rendered against you for the relief demanded in the petition. Please see Iowa Court Rules Chapter 16 for information on electronic filing and Iowa Court Rules Chapter 16, division VI regarding the protection of person information in court filings.

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at (319) 833-3332. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

Iowa Judicial Branch

Case No. **LACV146612**
County **Black Hawk**

Case Title **LINDA LAMAACK VS MENARD INC**

You must file your Appearance and Answer on the Iowa Judicial Branch eFile System, unless the attached Petition and Original Notice contains a hearing date for your appearance, or unless the court has excused you from filing electronically (*see* Iowa Court Rule 16.302).

Register for the eFile System at www.iowacourts.state.ia.us/Efile to file and view documents in your case and to receive notices from the court.

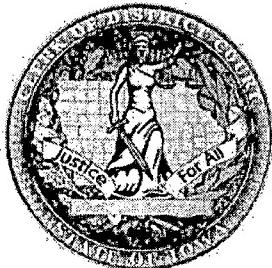
For general rules and information on electronic filing, refer to the Iowa Rules of Electronic Procedure in chapter 16 of the Iowa Court Rules at www.legis.iowa.gov/docs/ACO/CourtRulesChapter/16.pdf.

Court filings are public documents and may contain personal information that should always be kept confidential. For the rules on protecting personal information, refer to Division VI of chapter 16 of the Iowa Court Rules and to the Iowa Judicial Branch website at www.iowacourts.gov/for-the-public/representing-yourself/protect-personal-information/.

Scheduled Hearing:

If you need assistance to participate in court due to a disability, call the disability access coordinator at **(319) 833-3332**. Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). For more information, see www.iowacourts.gov/for-the-public/ada/. **Disability access coordinators cannot provide legal advice.**

Date Issued **10/28/2022 11:16:05 AM**



District Clerk of Court or/by Clerk's Designee of Black Hawk County
/s/ Rhonda Bouska

IN THE IOWA DISTRICT COURT FOR BLACK HAWK COUNTY

LINDA LAMAACK, Plaintiff, vs. MENARD, INC., Defendant.	LAW No. _____ PETITION AT LAW and JURY DEMAND
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COMES NOW Plaintiff Linda Lamaack, by and through her undersigned counsel, and for her claim against Defendant Menards, Inc., states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Linda Lamaack is and was at all times hereto a resident of Fort Atkinson, Winneshiek County, Iowa.
2. Defendant Menard, Inc. (hereinafter "Menards"), operating under the name of Menards, owns and operates a shopping center known locally as Menards, located at 1051 E. San Marnan Dr., Waterloo, IA 50702, Waterloo, Black Hawk County, Iowa.
3. Defendant Menards is a foreign, for-profit Wisconsin corporation with its principal place of business in Eau Claire, Wisconsin. It is registered to conduct business in the State of Iowa and may be served through its corporate agent.
4. Defendant Menards is the deed holder of the real estate at 1051 E. San Marnan Dr., Waterloo, Black Hawk County, Iowa.
5. The registered agent for Menard, Inc. is Corporation Service Company, 505 5th Avenue, Des Moines, IA 50309.
6. The damages resulting from the injuries alleged herein exceed the jurisdictional amount for small claims court and were sustained to a significant degree in Black Hawk County, Iowa.

COUNT I – PERSONAL INJURY (PREMISES LIABILITY)

7. Plaintiff re-asserts the allegations contained in Paragraphs 1-6 as if fully restated herein.
8. On May 22, 2022, Plaintiff Linda Lamaack was a patron of Menards store located 1051 E. San Marnan Dr., Waterloo, IA 50702.
9. On the aforementioned date, Linda Lamaack was walking to the garden section of the store when suddenly and without warning an automatic overhead door collapsed on her head causing serious injuries.
10. As a result of the incident on May 22, 2022, Plaintiff Linda Lamaack sustained injuries.
11. The injuries sustained by Plaintiff Linda Lamaack on May 22, 2022 as a result of the incident on May 22, 2022 were severe and permanent.
12. Menards as the owner and occupier of the premises at of Menards store located 1051 E. San Marnan Dr., Waterloo, IA 50702, had a duty to ensure its premises, including any automatic doors therein, were safe to visitors to the store, which it failed to do.
13. Defendant was negligent in one or more of the following particulars:
 - a. In allowing a dangerous condition to be present within Menards store located 1051 E. San Marnan Dr., Waterloo, IA 50702, knowing that customers present at the store would be exposed to the dangerous condition;
 - b. In failing to inspect hazards and maintain safety precautions within the retail area of Menards store located 1051 E. San Marnan Dr., Waterloo, IA 50702; and
 - c. In failing to exercise reasonable care to protect customers, including Plaintiff Linda Lamaack.
14. That as a result of the Defendant's negligence, Plaintiff Linda Lamaack has sustained severe and permanent injuries; including, but not limited to, pain and suffering (past, present and future); loss of function of the mind and body and disability (past, present, and future), mental anguish (past,

present and future); medical expenses; and has sustained a loss of the enjoyment of life all to her detriment.

COUNT II – RES IPSA LOQUITUR

15. Plaintiff re-asserts the allegations contained in Paragraphs 1-14 as if fully restated herein.

16. On May 22, 2022, Plaintiff Linda Lamaack was injured by an instrument under the exclusive control of Defendant Menards, specifically an automatic door.

17. The automatic door which injured Plaintiff was under the exclusive control of Defendant Menards at the time it injured Plaintiff.

18. The injury sustained by Plaintiff would not have occurred if ordinary care had been used.

19. That as a result of the Defendant's negligence, Plaintiff has sustained severe and permanent injuries; including, but not limited to, pain and suffering (past, present and future); loss of function of the mind and body and disability (past, present, and future), mental anguish (past, present and future); medical expenses; and has sustained a loss of the enjoyment of life all to her detriment.

WHEREFORE, Plaintiff Linda Lamaack, by and through her undersigned counsel, prays for judgment in favor of the Plaintiff and against the Defendant Menard, Inc. for an amount which will fully, fairly, and adequately compensate Plaintiff for her injuries and damages, for costs of this action, together with interest as provided by law, and for other such relief to which she is entitled.

Respectfully Submitted,

By: /s/ Nicholas C. Rowley

TRIAL LAWYERS FOR JUSTICE, P.C.

Nicholas C. Rowley AT0009516
Dominic F. Pechota AT0006175
Jon Specht AT0012576
421 W. Water St., Third Floor
Decorah, IA 52101
Phone: (563) 382-5071
Fax: (888) 801-3616
Email: nick@tl4j.com; dominic@tl4j.com;
jon@tl4j.com

JURY DEMAND

COMES NOW Plaintiff Linda Lamaack hereby requests a trial by jury on all issues so triable under Iowa law.

Respectfully Submitted,

By: /s/ Nicholas C. Rowley

TRIAL LAWYERS FOR JUSTICE, P.C.

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jon@tl4j.com

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LINDA LAMAACK, Plaintiff, vs. MENARD, INC., Defendant.	LAW No. _____ CIVIL ORIGINAL NOTICE
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Iowa Judicial Branch

Case No. **LACV146612**
County **Black Hawk**

Case Title **LINDA LAMAACK VS MENARD INC**

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Date Issued **10/28/2022 11:16:05 AM**



District Clerk of Court or/by Clerk's Designee of Black Hawk County
/s/ Rhonda Bouska

AFFIDAVIT OF SERVICE

STATE OF IOWA)
)
COUNTY OF POLK)

Case No: LACV 146612
Date Received: 10/28/22

- I, being first duly sworn, depose and say that I received and served:
- | | |
|--|---|
| <input checked="" type="checkbox"/> Original Notice | <input type="checkbox"/> Application for Hearing of
Temporary Issues |
| <input checked="" type="checkbox"/> Petition | <input type="checkbox"/> Summons |
| <input checked="" type="checkbox"/> Jury Demand | <input type="checkbox"/> Complaint |
| <input type="checkbox"/> Subpoena Duces Tecum | <input type="checkbox"/> Notice to Quit |
| <input type="checkbox"/> Petition for Dissolution of Marriage | <input type="checkbox"/> Notice of Nonpayment
of Rent and Intention to
Terminate Rental |
| <input type="checkbox"/> Notice of Termination of tenancy | <input type="checkbox"/> Agreement |
| <input type="checkbox"/> Order: Pretrial Conf / Discovery | <input type="checkbox"/> Appearance and Answer |
| <input type="checkbox"/> Subpoena | <input type="checkbox"/> Notice Non-judicial
Foreclosure |
| <input type="checkbox"/> Family Law Case Requirements Order | <input type="checkbox"/> Notice to Quit |
| <input type="checkbox"/> Notice of Termination of Tenancy | <input type="checkbox"/> Exhibit |
| <input type="checkbox"/> Confidential Information Form | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Verification of Account | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Order Re: Mediation of Temporary Matters
and Setting Hearing | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Notice of Forfeiture of Real Estate Contract | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Order | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Application for Rule to Show Cause | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Rule to Show Cause / Order for Hearing | <input type="checkbox"/> Attachments |

Person Served: Menard, Inc

Date Served: 10-28-22 / 2:04 A.M. P.M.

505 - 5th Ave #729 Des Moines, IA
(Address)

Manner of Service

- | |
|---|
| <input type="checkbox"/> Personally |
| <input type="checkbox"/> Dwelling House, to person residing therein who was over the age of 18. |
| <input type="checkbox"/> Apartment Building |
| <input type="checkbox"/> Spouse, who lives at the dwelling house. |
| <input checked="" type="checkbox"/> Corporation/State Official |

NAME AND TITLE OR RELATIONSHIP OF INDIVIDUAL SERVED

Subscribed and sworn to me by Wendy Young
this 28 day of Oct, 2022.

Notary Public for the State of Iowa

